

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.23853 of 2005

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Dated: 09.12.2005

Between:

M/s.Track Tyre Tube Pvt.Ltd.,
Regd.Office No.6, "Alcazar", 11/1, Infantry Road Cross,
Bangalore-560 001.

..... PETITIONER

AND

Andhra Pradesh Industrial Development
Corporation Limited (State Govt.Undertaking),
represented by its Managing Director, Parishram Bhavan,
Basheerbagh, Hyderabad and another.

.....RESPONDENTS

ORDER:

The petitioner participated in the auction for sale of an industrial unit by the first respondent. His offer was Rs.36,00,000/-. However, he did not pay the amount within the stipulated time. The petitioner contends that the delay for deposit of the amount was on account of lack of clear commitment on the part of the first respondent, and when he ultimately offered to pay the amount, the same was not

received. This writ petition is filed seeking appropriate directions, in this regard.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

When the writ petition came up for admission on 08.11.2005, this Court granted interim stay on condition that the petitioner deposits a sum of R.36,00,000/-, on or before 16.11.2005. It is represented that the said condition has not been complied with. Therefore, this Court is not inclined to grant any relief to the petitioner.

Learned counsel for the petitioner submit that the respondents are trying to forfeit the earnest money deposit made by the petitioner, though the default was not exclusively on the part of the petitioner. The learned Standing Counsel for the respondents, on the other hand, submits that his clients are not proceeding to put the unit to sale once again.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that-

- a. it shall be open to the first respondent to proceed with the sale of the unit and the petitioner shall be entitled to participate in the auction on the basis of the earnest money deposit submitted by him on an earlier occasion;
- b) in case the petitioner emerges as the highest bidder, he shall be liable to deposit the amount within 24 hours from the finalisation of the bid, notwithstanding the time frame for depositing the amount by other successful tenderers, and if he fails to do so, it shall be open to the first respondent to accept the next highest bidder;
- c. in case the highest bid that is fetched in the auction is more than Rs.38,00,000/-, the petitioner shall be entitled to be refunded the EMD in the event of his not being the successful bidder. If the bid is less than that amount, the EMD of the petitioner shall stand forfeited. Similarly, if the petitioner does not participate in the auction at all, the EMD shall stand forfeited.

There shall be no order as to costs.

09.12.2005

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